

REMARKS

Claims 1-7, 10-24 and 40-42 are currently pending. Applicants note with appreciation the indication of allowable subject matter in claims 12-15, 23, 24 and 41.

Objections to Specification

The Office Action of August 25, 2008 includes an objection to the specification suggesting that the term "tangible recording medium" as it appears in claims 40-42 does not have sufficient antecedent basis in the specification. It is noted that 37 C.F.R. § 1.75(d)(1) does not impose an obligation that the exact terms in the claims appear in the specification. Further, it is readily apparent that the Examiner has identified support for the phrase in the specification and had no difficulty in interpreting the phrase. Furthermore, the Office Action suggests that the Office now requires the explicit use of the exact of the same language in the written description and the claims. The undersigned knows of no such requirement and in fact there is substantial body of law that says that this is not the case. However, to advance prosecution, Applicants are willing to change the Examiner's suggested phrase to "computer-readable recording medium", which has direct support in the specification since arguably this either has no bearing on the scope of the claims or even may broaden it.

In light of the foregoing comments, Applicants respectfully request withdrawal of this objection to the specification.

35 U.S.C. § 101

The Office Action includes a rejection of claims 1-7 and 10-18 under 35 U.S.C. § 101 alleging that the claimed invention is directed to non-statutory subject matter. The Office noted that claim 1 recites the word "device" and the preamble suggests that the actual method is not tied to another statutory class. Applicants respectfully point to the recitation of the "obtaining step" which relates to obtaining a predetermined illumination characteristic data of illumination **around the image display device**. Hence, claim 1 is tied to a different statutory class not only in the preamble, but also in the body of the claim. It is in compliance with In re Bilski, 2008 WL 4757 110 (Fed. Cir. Oct. 30 2008) (en banc) at 13 (electronic signal representative of a physical thing.)

35 U.S.C. § 103

Accordingly, withdrawal of this rejection is respectfully requested.

The Office Action also includes a rejection of claims 1-7, 10, 11, 16, 19-22, 40 and 42 under 35 U.S.C. § 103 as allegedly being unpatentable over Nakabayashi et al. (U.S. Patent 6,628,822) in view of Van Hook et al. (U.S. Patent 6,937,245). This rejection is respectfully traversed.

Recitations of claims 12, 23 and 41 have been added to independent claims 1, 19 and 40, respectively in light of the Examiner's indication at the paragraph bridging pages 11 and 12 of the Office Action that "the prior art of record does not explicitly disclose including in the illumination type block data, a flag to indicate whether data in a type payload is a color temperature value or a chromaticity value"

in combination with the claims from which claims 23, 24 and 41, as well as claims 12-15, depend.

The appropriate language has been extracted from claims 12, 23 and 41 and added to the independent claims, thereby rendering this rejection moot and the claims patentable for reasons of record.

In light of the foregoing, Applicants respectfully request reconsideration and allowance of the above-captioned application. Should any residual issues exist, the Examiner is invited to contact the undersigned at the number listed below.


If additional fees are required for any reason, please charge Deposit Account No. 02-4800 the necessary amount.

Respectfully submitted,

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